

## **REMARKS/ARGUMENTS**

This is in response to the Office Action of April 18, 2007. In that Office Action, Claims 1, 4-12, and 14-27 were rejected under 35 USC 102(b) as being anticipated by Osterlind et al.

Claims 13 and 28 were rejected under 35 USC 103(a) as being obvious over Osterlind et al. as modified by Hajianpour.

By this Amendment, independent Claims 1 and 11 have been amended. Amended Claims 1 and 11 are directed to a needle protector for use with a needle assembly that includes a flexible plastic tube attached to a needle hub and a needle mounted on the hub. The housing is elongated and defined by a pair of facing side walls. The housing includes an open distal end and an open proximal end. The open proximal end has a multiple profile window adapted to selectively slidably receive and retain the tubing. At least one of the side walls forms a retaining member located a distance from the distal end, extending from the surface of the wall for retaining the hub of the needle assembly.

It is the position of the Patent Office that Osterlind et al. discloses side walls having a retaining member. The retaining member is identified as “unlabeled detent in distal opening of Figures 6 and 9 (emphasis added).” The prior art does not disclose how this member functions or where specifically it is attached within the device other than to say that it is at the “distal opening.” As noted above, Claims 1 and 11 have been amended to recite a retaining member spaced from the distal opening. For this reason alone, Osterlind et al. does not anticipate Claims 1 and 11, and their dependent claims.

Applicants submit Claims 1 and 11 are also not anticipated by Osterlind et al. because Osterlind et al. does not disclose or suggest a needle protector including a multiple profile window in the proximal open end sized so that the hub cannot pass through the proximal end. The "hub" in Osterlind et al. is identified by reference numeral 20. The hub 20 is mounted onto a catheter body 10 which includes grippers (14) attached to the body by webs (12). Elongated slots (24) are provided "through which webs 12 extend ...." Movement of body and, therefore, of hub 20 is limited by the length of slots 24 which end well shy of the proximal end. Thus, there is nothing about the size and shape of the proximal end in Osterlind et al. that prevents movement of the hub therethrough. For this additional reason, Claims 1 and 11 are not anticipated by Osterlind et al.

Finally, Osterlind et al. does not disclose or suggest a multiple profile window that is shaped and sized to receive and retain tubing. Indeed, tubing is neither shown nor disclosed in Osterlind et al. There is no suggestion in Osterlind et al. that the lateral slots of the window would be able to retain tubing, while the circular portion of the proximal end is likely too large to retain the tubing. The absence of any disclosure of tubing extending through the proximal end makes it impossible to say that the "window" in Osterlind et al. can retain tubing, and saying that it does amounts to nothing more than unsubstantiated speculation. In the present application, the window in the proximal end has two sized openings that can either receive or retain, respectively, the tubing at any location along that tubing. For these additional reasons, Osterlind et al. does not disclose or suggest a device with a proximal open end that includes a multiple profile window having a portion sized and shaped to slidably receive tubing and another portion sized and shaped to retain the tubing. Moreover, Applicants submit that since

Osterlind et al. does not disclose the present invention as claimed in Claims 1 and 11, Claims 13 and 28 would not have been obvious over Osterlind et al. in combination with Hajianpour.

Claims 4-10 and 12-28 depend from either independent Claims 1 or 11, and for the reasons set forth above, Applicants submit that dependent Claims 4-10 and 12-28 should likewise be allowed.

All of the pending Claims 1, 4-28 are believed to be in condition for allowance. Reconsideration and allowance of such claims are respectfully requested.

Respectfully submitted,



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